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Jesse Mwonga
1118 Cavalcade Drive
Grand Prairie, TX 75052
Email: jesmwong@yahoo.coM
469-235-8442

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

JESSE MWONGA,

Plaintiff,

vs.

PORTFOLIO RECOVERY ASSOCIATES,
LLC,,

Defendant

Case No.: 3:25-cv-00956-L-BK

PLAINTIFF'S MOTION FOR LEAVE TO
FILE FIRST AMENDED COMPLAINT

**PLAINTIFF'S MOTION FOR LEAVE TO FILE FIRST AMENDED
COMPLAINT (Local Rule 7.1(h))**

TO THE HONORABLE COURT:

NOW COMES Plaintiff JESSE MWONGA and respectfully moves this Court for
leave to file his First Amended Complaint under Rule 15(a)(2), Fed. R. Civ. P.
and in support thereof Plaintiff states:

I. LEGAL STANDARD

1. Under Fed. R. Civ. P. 15(a)(2), leave to amend should be "freely given when
justice so requires." See *Foman v. Davis*, 371 U.S. 178, 182 (1962). The Fifth
Circuit has long recognized that "[a] district court must possess a substantial

reason to deny a request for leave to amend.” *Smith v. EMC Corp.*, 393 F.3d 590, 595 (5th Cir. 2004).

II. AMENDMENT PURPOSE

2. Plaintiff seeks to:

- Clarify and expand upon factual allegations;
- Add claims for securitization-based lack of standing;
- Add counts under RICO (18 U.S.C. § 1962) and Declaratory Relief (28 U.S.C. § 2201);
- Preserve and refine existing FCRA, FDCPA, and Texas Finance Code claims.

3. This amendment reflects new information and legal theories supported by public SEC filings, Plaintiff’s credit disputes, and Defendant’s own filings and refusal to verify debt ownership.

III. LOCAL RULE 7.1(h) CONFERENCE

4. On May 29, 2025, Plaintiff contacted Defendant’s counsel by email to confer regarding this Motion. Defendant formally responded on the same day and opposed the proposed amended complaint for reasons stated in their prior filing. See Exhibit A (email thread attached).

IV. JUSTICE REQUIRES LEAVE BE GRANTED

- 1 5. The proposed amended complaint is not futile and clearly states valid claims
2 under Rule 8(a), with sufficient detail to meet pleading standards—even where
3 Rule 9(b) may apply.
4
5 6. Granting leave to amend at this early stage of litigation will promote resolution on
6 the merits and does not unduly prejudice Defendant.

7
8 **V. PRAYER**

9 WHEREFORE, Plaintiff respectfully requests the Court:

- 10
11 • GRANT this Motion for Leave to File the First Amended Complaint (Exhibit
12 B);
13 • ORDER Defendant to file an answer or responsive pleading thereto;
14 • And grant any further relief as the Court deems just and proper.
15

16 Amended Complaint (attached hereto as Exhibit B) and for any further relief
17 deemed just.
18

19 Respectfully submitted,
20 /s/ Jesse Mwonga
21 **Jesse Mwonga**
22 1118 Cavalcade Drive
23 Grand Prairie, TX 75052
24 jesmwong@yahoo.com
25 469-235-8442
26 **Pro Se Plaintiff**
27
28

EXHIBIT A



J Mwonga <jesmwong@gmail.com>

Meet & Confer – Motion for Leave to File Amended Complaint

6 messages

J Mwonga <jesmwong@gmail.com>
To: Jacob Bach <jbach@mgl.law>
Cc: Laura Monsivais <lmonsivais@mgl.law>

Wed, May 28, 2025 at 4:39 PM

Dear Mr. Bach,

Pursuant to Local Rule 7.1(h), I am reaching out to confer before re-filing my Motion for Leave to File First Amended Complaint in Mwonga v. Portfolio Recovery Associates, LLC, Case No. 3:25-cv-00956-L-BK.

Please let me know whether your client opposes the relief sought in the forthcoming motion. I will wait 72 hours before proceeding in accordance with the local rules.

Respectfully
Jesse Mwonga
Pro Se Plaintiff

Jacob Bach <jbach@mgl.law>
To: J Mwonga <jesmwong@gmail.com>
Cc: Laura Monsivais <lmonsivais@mgl.law>

Thu, May 29, 2025 at 11:23 AM

Good morning,

Do you plan to file the same amended complaint? If so, we oppose for the reasons stated in the response we filed. If you intend to file a different amended complaint, please provide a draft so we can review it prior. Thanks.

Jacob Bach

Senior Associate

JBach@mgl.law

8750 N. Central Expressway, Suite 1850, Dallas, Texas 75231

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IRS Circular 230 Disclosure: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal

EXHIBIT B

1 Jesse Mwonga
2 1118 Cavalcade Drive
3 Grand Prairie, TX 75052
4 Email: jesmwong@yahoo.coM
5 469-235-8442

6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE NORTHERN DISTRICT OF TEXAS
8 DALLAS DIVISION

9 JESSE MWONGA,

10 Plaintiff,

11 vs.

12 PORTFOLIO RECOVERY ASSOCIATES,
13 LLC,,

14 Defendant

Case No.: 3:25-cv-00956

FIRST AMENDED COMPLAINT

JURY TRIAL BY DEMAND

15 **FIRST AMENDED COMPLAINT**

16
17 TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

18
19 NOW COMES Plaintiff, JESSE MWONGA ("Plaintiff"), pro se, and files this
20 First Amended Complaint against PORTFOLIO RECOVERY ASSOCIATES,
21 LLC ("Defendant"), and respectfully alleges as follows:
22

23 **I. JURISDICTION AND VENUE**

- 24 1. Jurisdiction is proper under 28 U.S.C. § 1331 as this case arises under the Fair
25 Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692 et seq., the Fair
26 Credit Reporting Act ("FCRA"), 15 U.S.C. § 1681 et seq., and RICO, 18 U.S.C. §
27 1962 et seq.
28

- 1 2. Venue is proper pursuant to 28 U.S.C. § 1391(b) as the events occurred in this
2 District.

3
4 **II. PARTIES**

- 5
6 3. Plaintiff Jesse Mwonga is a natural person residing at 1118 Cavalcade Dr., Grand
7 Prairie, 75052.
8
9 4. Defendant Portfolio Recovery Associates, LLC is a Virginia limited liability
10 company doing business in Texas.

11 **III. FACTUAL BACKGROUND**

- 12
13 5. Defendant attempted to collect a debt allegedly originated by Capital One Bank
14 (USA), N.A between June and November 2024.
15
16 6. Plaintiff disputed with an Affidavit of Truth and cease communication notice
17 under 15 U.S.C. § 1692c(c).
18
19 7. Despite notice, Defendant continued communication and credit reporting to all
20 major CRAs.
21
22 8. Capital One securitized its receivables. PRA never acquired legal title or servicing
23 rights to Plaintiff's debt.

24 **IV. CLAIMS FOR RELIEF**

25 **COUNT I – FDCPA Violations (15 U.S.C. §§ 1692c, 1692e, 1692f)**

- 26
27 9. Defendant continued to contact Plaintiff after receiving a cease communication
28 request in violation of 15 U.S.C. § 1692c(c).

1 10. Defendant used misleading representations and unfair practices in violation of §§
2 1692e and 1692f.

3
4 *See* McMillan v. Collection Prof'ls Inc., 455 F.3d 754 (7th Cir. 2006).

5
6 **COUNT II – FCRA Violations (15 U.S.C. § 1681s-2(b))**

7
8 11. Defendant reported false information to credit bureaus without verifying accuracy
9 after Plaintiff's dispute.

10
11 *See* Cushman v. Trans Union Corp., 115 F.3d 220 (3d Cir. 1997).

12 **COUNT III – Texas Finance Code Violations (§§ 392.202, 392.304)**

13
14 12. Defendant failed to investigate Plaintiff's dispute and reported false information,
15 violating §§ 392.202 and 392.304(a)(8).

16
17 **COUNT IV – Defamation and Invasion of Privacy**

18
19 13. Defendant defamed Plaintiff by falsely reporting delinquent debt and disclosing
20 private financial information to third parties with no lawful basis.

21
22 **COUNT V – Lack of Standing & Securitization-Based Fraud**

23
24 14. Capital One securitizes its credit card receivables through "Capital One Master
25 Trust" and "COMET."

26 15. Capital One Form 10-K (FY 2023, p. 85):
27
28

1 *“We sell credit card receivables into securitization trusts... which are*
2 *legally separate from Capital One.”*
3

4 16. The alleged account, once securitized, was no longer owned by Capital One and
5 could not be sold to PRA.

6 17. PRA has failed to produce:
7

- 8 a. A Pooling & Servicing Agreement (PSA)
9 b. Schedule A (loan-level data)
10 c. Assignment documents
11 d. GAAP accounting entries showing ownership
12

13 18. PRA’s conduct violates 15 U.S.C. § 1681s-2, FDCPA § 1692e(2), and Texas
14 Finance Code § 392.304(a)(19) and UCC §§ 3-301 & §§ 9-203.
15

16 **COUNT VI – RICO (18 U.S.C. §§ 1962(c), 1964(c))**
17

18 19. Defendant participated in a scheme to defraud Plaintiff and the public by falsely
19 representing ownership of debts that were securitized.
20

21 20. Predicated acts include:
22

- 23 • Wire fraud (18 U.S.C. § 1343): Using credit reporting and reporting false
24 tradelines;
25 • Mail fraud (18 U.S.C. § 1341): Sending collection notices without lawful
26 assignment and misuse of CRA’s to collect phantom debt.
27
28

1 21. Defendant engaged in a pattern of racketeering activity, and Plaintiff suffered
2 financial and reputational injury as a result.

3
4 *See* Bridge v. Phoenix Bond & Indem. Co., 553 U.S. 639 (2008); United
5 States v. Turkette, 452 U.S. 576 (1981).

6
7 **COUNT VII DECLARATORY JUDEGEMENT**

8
9 22. Plaintiff seeks a declaration that PRA has no legal right to report or collect this
10 debt.

11
12 **VIII. RELIEF REQUESTED**

13
14 Plaintiff seeks:

- 15
- 16 • Statutory damages under FDCPA and FCRA in the amount of \$2,000;
 - 17 • Actual damages for credit harm, mental anguish, and economic loss. In the
18 amount of \$25,000.
 - 19 • Punitive damages in the amount of \$50,000.
 - 20 • Injunctive relief prohibiting further collection/reporting;
 - 21 • Declaratory relief establishing PRA's lack of standing;
 - 22 • Treble damages under RICO;
 - 23 • Attorneys' fees and costs;
 - 24 • Any further relief the Court deems just.
- 25
26
27
28

1 Respectfully submitted,
2 /s/ Jesse Mwonga
3 **Jesse Mwonga**
4 1118 Cavalcade Drive
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8 **Pro Se Plaintiff**